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3 SEPARATED L.A. PARISHES GAIN COURT VICTORY

By Ruth Nicaastro

LOS ANGELES -- Reversing a 30-month-old Superior Court decision, a state Court of Appeal ruled on Jan. 30 that the property of three parishes which broke away from the Episcopal Church and the Diocese of Los Angeles belongs to the parishes. The three parishes are St. Mary of the Angels (Hollywood), St. Matthias (Sun Valley), and Our Saviour (Los Angeles).

At the same time the Court ruled that the property of the fourth parish involved in the litigation, Holy Apostles (Glendale), was subject to an expressed trust because of language contained in its Articles of Incorporation and because it was incorporated after the adoption by the diocese in 1958 of a canon which specifically states that on dissolution of a parish its property reverts to the diocese. The Articles' language cited identifies the parish as an integral and subordinate unit of the larger Episcopal Church and the Diocese of Los Angeles.

Immediate petitions by the diocese and Holy Apostles for rehearing were turned down and those parties are exploring appeals to the California Supreme Court.

The Los Angeles decision marks the first time in the recent round of court actions concerning dissident parishes that a Court has found against the diocese. Cases in the San Francisco Bay area, Virginia and New Jersey have, in fact, been resolved with findings that affirm the hierarchical nature of the Church and its reversionary rights.

The four parishes separated from the Episcopal Church in January 1977, by changing their Articles of Incorporation on file with the California Department of State to omit all references to the Episcopal Church or the Diocese of Los Angeles. Subsequently the diocese filed suit to recover the property on grounds that parish property "has been and remains irrevocably dedicated to the Protestant Episcopal Church." The congregations were permitted to continue to occupy the property pending outcome of the suit, but were enjoined from disposing of any of the property.

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On June 21, 1978, Superior Court ruled in favor of the diocese in all four instances. The memorandum stated that since the Episcopal Church is a hierarchical church both in ecclesiastical and temporal matters, member parishes are part of a "much larger and more important religious organization, under its government and control and bound by its orders and judgments."

The memorandum also said that all of the property of each parish was impressed with an implied charitable trust, requiring its use for the benefit of members or congregations of the Episcopal Church, and that this trust had been set forth in the original Articles of Incorporation of each parish.

The four parishes appealed that decision. The result of that appeal was the decision handed down on Jan. 30 by the three-judge appellate court.

Justices Macklin Fleming and Edwin F. Beach concurred in the opinion, written by Fleming, which terms irrelevant the hierarchical nature of the Episcopal Church and states that so-called "neutral principles of law" require the existence of an express trust before parent church organizations will be deemed to have any interest in the property of individual parishes. No such express trust exists in the case of the three parishes, the court said, because they were incorporated before the diocese adopted the canon, and their articles of incorporation do not include the specific wording of those of Holy Apostles.

The opinion likens the relationship between the diocese and its member parishes, in terms of property ownership, to that of a fried chicken chain and its franchise holders.

Presiding Justice Lester W. Roth dissented, stating in a separate opinion that the property of all four parishes belongs to the diocese because if an express trust existed for Holy Apostles, it existed also for the other three; and if no express trust existed then "the hierarchical structure of (the Episcopal Church) should be, as it was in the trial court, the controlling consideration."

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